NOTES

I. MUNICIPAL GOVERNMENT

Denver.—*Home Rule for Cities.*[1] The Twentieth Article—better known as the Rush Amendment—to the Constitution of Colorado, was, on the 18th day of March, 1901, submitted to the electors of the State and, by them, ratified at the general election in November. The Governor, by proclamation, declared the amendment in force December 1. Immediately the courts were asked to pass on the constitutionality of the amendment. The decision of the Supreme Court, sustaining the constitutionality of the amendment, was handed down February 27, 1903.

While the amendment was intended, principally, to create the "City and County of Denver," and give it home rule, there was added a section extending the privilege of home rule to cities of the first and second classes if they desired it. But not one of these cities has taken advantage of the opportunity to adopt a charter and govern itself under organic laws of its own creating.

The charter adopted by the First Charter Convention of Denver, in session from June 9 to August 1, 1903, was rejected by the people. A second Charter Convention has been held and a new charter, radically different from the first, is now before the people. If it is rejected, March 29, a new election for members of a third Convention must be held within thirty days, and the members elected must proceed to the making of a new charter. In the meantime the organic laws of Denver remain the same as they were when the Twentieth Article went into effect. If the people ratify the present proposed charter, it becomes the organic law of the "City and County of Denver" as soon as the City Clerk files two duly certified copies of the same with the Secretary of State. The legislature has no authority in the matter.

The question of most serious import is, Is the City and County of Denver entirely without the jurisdiction of the State Legislature.

The amendment declares that Denver "shall have the exclusive power to amend its charter, or adopt a new charter, or to adopt any measure," and further declares that "no such charter, charter amendment or measure shall diminish the tax rate for State purposes fixed by an Act of the General Assembly," or interfere with the collection of State taxes. In the case of *State of Colorado, ex rel Elder vs. Sours*, in which the constitutionality of the Twentieth Article was determined, Justice Campbell declared Denver to be "absolutely free from all constitutional restraint and from any supervision by the General Assembly." But Justice Steele declared: "The provision that every charter shall designate the officers who shall, respectively, perform the acts and duties required of county

[1] Communication of Professor Frank H. Roberts, University of Denver, March 15, 1904.

officers to be done by the Constitution or by the general law, as far as they are applicable, completely contradicts the assumption that regards such duties as being subject to local regulation and control."

After naming the officer to perform some strictly county duty, the Charter Convention, then, said he, "shall perform the duties of the office of —— as prescribed by the general laws of the State," or by the Constitution, "and such other duties not inconsistent with such laws as the Council may by ordinance direct." But in matters that are purely municipal the charter either prescribes the duties or leaves them to be prescribed by ordinance.

It is generally believed that it will require a great deal of litigation to determine exactly the status of Denver.

Missouri.—*Home Rule for Cities.*[2] The Constitution of Missouri, adopted in 1875, and now in force, empowered the city of St. Louis to frame a charter for its own government. (Article 9, Sections 20 to 23 inclusive.) The Constitution also authorizes cities having a population of more than 100,000 to frame a charter for their own government. (Article 9, Section 16.) Under these Constitutional provisions, the charter must be consistent with and subject to the Constitution and laws of the State. The charter is first prepared by a Board of thirteen freeholders, and is then to be submitted to the qualified voters of the city at an election held for that purpose. If a majority of the electors voting at the election in St. Louis, or four-sevenths of the qualified voters in other cities, ratify the same, the proposed charter becomes the charter of the city and supersedes any existing charter or amendments thereto. The Constitution provides, in cities other than St. Louis, that the charter shall, among other things, provide for a Mayor and two Houses of the Municipal Council, one of which, at least, shall be elected by general ticket.

The people of the former county of St. Louis, on August 22, 1876, ratified the "Scheme and Charter" prepared under the authority of the Constitution, and this became the charter of St. Louis sixty days thereafter. (State ex rel Finn, 4 Mo. App. 347). Kansas City has accepted the charter-framing privilege and adopted a charter, which became operative May 9, 1889. (Kansas City *vs.* Bacon, 147 Mo. 259.) The Constitution provides that the charter shall become operative in the City of St. Louis sixty days after ratification by the voters, and in other cities thirty days thereafter; and that a copy shall be filed in the office of the Secretary of State and one recorded in the office of the Recorder of Deeds, in the county in which the city lies, and thereafter all courts shall take judicial notice thereof. Approval by the legislature is unnecessary. The State legislature has no power to amend such charter. The Constitution provides that such charters may be amended only by the qualified voters of the city.

There are only three cities in Missouri of sufficient population to take advantage of this provision of the Constitution, and of these St. Louis and Kansas City have availed themselves of the privilege. In no instance has such charter been rejected by the people.

[2] Communication of H. L. McCune, Esq., Kansas City, Mo.

Charters drawn under the authority of the constitution "must be consistent with and subject to the laws of the state." This provision has been construed by the Supreme Court as limiting the municipality to legislating only with reference to matters of purely local concern. It has therefore been held that where the provisions of a city charter creating a board of police commissioners conflict with an act of the legislature governing the same subject, the charter provisions must give way. This for the reason that laws providing for a metropolitan police system for large cities are based on the elementary proposition that preservation of the public peace is a governmental duty resting upon the state and not upon the city. [State *vs.* Police Commissioners, 71 S. W., Rep., 215].

The provissions of the state statute with reference to the payment of expenses of the police department and of the salary rolls also supersede the charter provision governing the method of apportioning and paying city funds, and the municipality must pay such expenses when the police board has certified the amount thereof. [State *vs.* Mason, 153, Mo., 23].

Washington.—*Home Rule for Cities.*[3] The Constitution of Washington provides that "any city containing a population of 20,000 inhabitants or more shall be permitted to frame a charter for its own government consistent with and subject to the Constitution and laws of this State." The charter of any such city must be framed by fifteen freeholders elected by the qualified voters and ratified by a majority of the voters voting thereon. "Such charter may be amended by proposals therefor submitted by the legislative authority of such city to the electors thereof at any general election" and ratified by a majority of those voting thereon. The Constitution further provides that "any county, city, town, or township, may make and enforce within its limits all such local, police, sanitary and other regulations as are not in conflict with general laws."

The indebtedness of cities is limited by the Constitution to one and one-half per cent. of the taxable property therein, except with the assent of three-fifths of the voters, at an election held for that purpose, in which case the total indebtedness shall not exceed five per cent. of the assessed value of all taxable property. For the purpose of supplying the city with water, light and drainage, owned and controlled by the municipality, a further indebtedness of five per cent. may be incurred, if assented to in the manner above mentioned.

The first legislature after the admission of Washington as a State passed what is known as the Enabling Act, for cities of the-first class, which enumerated the powers of such cities and authorized them "to provide in their respective charters for a method to propose and adopt amendments thereto."

The method of amending city charters was before the legislature again in 1895, when an Act was passed requiring the City Council, on petition of one-fourth of the qualified voters, to cause an election to be held for the choice of freeholders to propose changes in the existing charter. An Act of the last legislature conferred the power to propose amendments to a city charter upon application of fifteen per cent. of the qualified electors.

[3] Communication of Professor J. Allen Smith, University of Washington, Seattle, Wash.

Many Acts have been passed changing the general law applicable to, and amending the charters of, cities of the first-class. The Constitution recognizes the principle of municipal self-government, but permits the legislature to determine how far the principle shall be carried in practice. The Supreme Court of this State has intimated that the constitutional provisions recognizing the right of municipal self-government are not self-executing, and does not seem disposed to concede to cities of the first-class any important powers, except such as have been expressly conferred by statute. For example, the statutes of Washington authorize cities of the first-class "to regulate and control the use" of gas supplied by a private corporation, and the charter of Tacoma gave the City Council power to fix the price of gas so supplied. Suit was brought to enjoin the city from exercising this power. The city of Tacoma claimed this power under the constitutional and statutory authority given to cities of the first-class. The Supreme Court held, however, that while it had the power to regulate and control, expressly given it by statute, it did not have the power to fix the price.

Duluth.—"*Home Rule" Charters in Minnesota.*[4] Some years since, the question of charter revision prominently engaged the larger municipalities of the State of Minnesota. In 1897 the legislature of Minnesota (see Chap. 280, General Laws of 1897) proposed an amendment to the State Constitution granting to cities, and villages desiring to incorporate as cities, the privilege, under certain specified restrictions, of framing their own charters. This amendment was voted upon at the general election on November 8, 1898, and was carried, the vote standing 68,754 for, and 32,068 against, the same. It became operative through the proclamation of the Governor of the State on December 29, 1898.

The Constitutional amendment expressly provides that the local law shall be consistent with the laws of the State, and specifies in detail numerous governing provisions:

1. The several charters are to be prepared by Boards of Charter Commissioners, composed of fifteen freeholders of the respective localities, appointed by the judge or judges of the local district courts. The charters must be submitted, upon thirty days' published notice, to popular vote; and, upon receiving the affirmative vote of four-sevenths of the qualified voters voting at the election, are thirty days thereafter to become effective.

2. The said Boards are permanent bodies, vacancies in which are to be filled in the same manner as original appointments are made, and the term of office of the several members thereof shall not exceed six years.

3. Amendments may be proposed by the Board and submitted to popular vote, and must be so submitted on petition of five per cent. of the legal voters. A three-fifths affirmative vote is necessary for their adoption.

4. It is a prescribed feature of all such charters that they shall provide for a chief magistrate and a legislative body of either one or two houses; and, if of two houses, that at least one of them shall be elected by the general vote of the electors.

The State legislature, on April 20, 1899 (see General Laws of 1899, Chap.

[4] Communication of W. G. Joerns, Duluth, Minn.

351), passed the required Enabling Act, which, in the main, followed closely the language of the Constitutional amendment, but fixed the term of office of the Charter Commissioners at four years; and provided, that "such charters may provide for regulating and controlling the exercise of any public franchise or privilege in any of the streets or public places in such cities, whether granted by such municipality or by or under the State or any other authority;" that no perpetual franchises shall be granted, and no exclusive franchise except on a majority vote of the qualified voters, and then not for a period exceeding ten years. Substantial restrictions are also placed upon the debt-creating capacity of the municipalities.

From the foregoing it is, therefore, evident that:

1. Such charters need not receive the approval of the State legislature before taking effect; albeit the legislature was first required to make the Constitutional amendment effective by the passage of the Enabling Act before referred to.

2. The power of the State legislature to amend individual charters is circumscribed by a Constitutional inhibition on special legislation and the provision in the charter amendment providing for general legislation as applied to specified classes. How far the legislature might, by general laws not entrenching on the provisions of the Constitutional amendment, affect the provisions of local charters, as for example, on the question of franchises, would be a matter for judicial determination.

The cities that have availed themselves of the privilege to thus frame their own charters, as reported from the office of the Secretary of State at St. Paul—with the date of the filing of a copy of such several charters in that office as required by law—are as follows:

Barnesville	July 25, 1898.
Blue Earth	April 11, 1899.
St. Paul	May 28, 1900.
Moorhead	June 20, 1900.
Duluth	Sept. 24, 1900.
Fairmont	April 11, 1901.
Willmar	Dec. 1, 1901.
Little Falls	Feb. 8, 1902.
Ortonville	April 12, 1902.
Ely	March 21, 1903.
Austin	April 13,. 1903.

There are in Minnesota fifty-three municipalities that, by the census of 1900, have a population of over 2,000; and of these, thirty-five have less than 5,000; eleven have more than 5,000 and less than 10,000, and only six have more than 10,000, namely: Minneapolis, St. Paul, Duluth, Winona, Stillwater and Mankato, the first three only being in any sense metropolitan cities. Of the municipalities before enumerated as having adopted charters, two, namely: Barnesville and Ortonville, have each less than 2,000 inhabitants.

The first charter that was framed in Duluth failed of adoption. Some of

the changes advocated were, perhaps, too radical, and its adoption was also opposed by a contingent of ward politicians, who were being legislated out of office. Possibly, also, the people may not, at that time, have awakened to the substantial import of the charter movement. The second attempt, however, proved successful, some modifications having been incorporated, though many very wholesome features were retained. The Duluth charter has been amended since its adoption, but not in any important particular.

The result in Minneapolis is well stated in the words of the kind reply of a Minneapolis official to my inquiry, herewith quoted, as follows: "Minneapolis is not operating under a 'home rule' charter. Our charter was adopted in 1872, and was subject to amendment until about 1891, when the State legislature passed an Act prohibiting the future amendment of our charter. At each of the three last municipal elections (1898, 1900 and 1902) a new charter was drafted by a Charter Commission and submitted to the voters for adoption, but failed in each instance to receive the necessary number of votes. Another charter has been drafted and will be submitted at the election to be held in November of this year. It is, I think, generally understood that the reason no new charter has been adopted is that the framers have made too many changes from our present charter, and have incorporated provisions which have antagonized certain interests"

California.—*Home Rule Charters.*[5] The Constitution of 1879 granted to the cities of over 100,000 inhabitants charter framing privileges. This provision was amended in some details in 1887, but still applied to cities of over 100,000 inhabitants. In 1892 the provision was amended, and its provisions were made to apply to cities of 3,500 inhabitants and over. Such charters must be approved by the State Legislature before taking effect. The Legislature has no power to amend such a charter, but must accept or reject it as a whole.

The cities that have availed themselves of charter framing privileges are as follows:

CITIES WITH FREEHOLDERS' CHARTERS.

	Population.	Date of Adoption.
San Francisco	400,000	1899
Los Angeles	125,000	1889
Oakland	70,000	1889
Sacramento	30,000	1893
San Jose	22,000	1897
Stockton	18,000	1889
San Diego	18,000	1889
Berkeley	15,000	1895
Fresno	13,000	1901
Pasadena	10,000	1901
Vallejo	8,000	1897
Eureka	8,000	1895

[5] Communication of William Denman, Esq., San Francisco.

CITIES WITH FREEHOLDERS' CHARTERS.

	Population.	Date of Adoption.
Santa Barbara	7,000	1899
Grass Valley	5,000	1893
Napa	5,000	1893
Watsonville	4,000	1903
Salinas	4,000	1903

Total—17. See statistics of the years given for copies of same.

No charters have ever been rejected by the Legislature—nor amendments thereto.

Charters rejected by Electors:

San Francisco	twice
Alameda	once
San Jose	once
Santa Cruz	once
Redlands	once
Santa Rosa	once—but received a majority voting on the question—but not a majority of votes at the election.

Boards of Freeholders have been elected to frame charters in Santa Rosa and Riverside.

Agitation of the matter in Santa Clara, Redlands, San Bernardino. The only measure of general importance affecting municipal home rule in this State is a proposition to authorize municipalities to give to the holders of subordinate positions in the public service a tenure during good behavior.[6] As the Constitution now stands, it provides that all offices in the State shall have either a tenure for four years or less, or that they shall hold at the pleasure of the appointing power. Our Courts have held that such subordinate positions as deputy health inspectors, police officers and clerks, are offices within the meaning of this section. Some of the Civil Service reformers seem to think it is necessary to guarantee to the holders of these subordinate positions a tenure which will last until they shall have been tried on definite charges and removed for cause. There are many of us who consider ourselves equally strong Civil Service men, who are opposed to this measure. As the Constitution now stands, the charters may provide that such position shall be filled only from an eligible list made up after examination by the Civil Service Board. It seems to us that once having taken away from the head of the office the power to remove at will, the spoil system has been destroyed. Heads of offices will not remove competent men when they have no opportunity to fill the vacancy with their personal friends and political followers. The difficulties attending the trial of persons charged with incompetency are so great, and the

[6] In San Francisco we now have appointments from an accredited list, and a charter provision providing for a trial before removal. The latter provision is unconstitutional and the proposed amendment is to make it effective.

friends of the party under trial create such disturbances in the newspapers, that many heads of offices would hesitate to attempt removals in such a manner. As a matter of fact, in the School Department, where that system prevails, there never has been to my knowledge, and I think I am informed of all the cases, a removal for incompetency, and the result of the tenure during good behavior and for removal for cause in that department at least has been that the only persons that have been removed are those whose delinquencies are so flagrant that a trial is entirely unnecessary.

San Francisco.—*Charter.*[7] The Charter of the City and County of San Francisco, which went into effect a little more than four years ago, has proven fairly satisfactory. It has been necessary, of course, to change a few details here and there in the light of experience so as to obtain the most effective administration. Seven amendments of this nature were adopted by the electors at a special election held December 4, 1902, and approved by the Legislature a few months later.

One of the amendments adopted a year ago removes all doubt as to the power of the municipal authorities to compel the joint use of tracks by street railway companies. Another, in order to induce good men to become candidates for office, increases the salary of the assessor from $4,000 to $8,000 per year, while a third authorizes an appropriation (not exceeding $5,000) for pensioning certain "aged, indigent, and infirm exempt firemen." Two amendments relate to the improving, cleaning and sprinkling of streets. Application for street improvements, it is provided, must be made by owners of property assessable for costs or by the constituted authorities of the city. The taxpayers are thus rid of the activity of the contractor who was interested in furthering plans for street improvements. The Board of Public Works is given more power in making improvements where objection is met with. Formerly objection by the owners of two-thirds of the property assessable for costs constituted an absolute bar to further proceedings without beginning anew. Now such an objection shall cause a "delay" of six months after which the improvement may be made, and where but a small part of a street (not exceeding two blocks) remains unimproved, such an objection need not even cause delay. The provisions of the Charter are extended and made applicable to sidewalks also. But more important, the Charter is amended so as to permit the city to provide for cleaning and sprinkling of streets by contract or by direct labor. Till then it was limited to the contract system, which has been unsatisfactory because of the inability of the Board of Public Works to compel the contractors to fulfill their entire obligation to the city. Another amendment permits the city to borrow for the purchase of building sites as well as for the erection of buildings. And finally, Article XII, relating to the acquisition of public utilities, was amended so as to rid the city of expense incurred for unnecessary labor.

The Charter declares it "to be the purpose and intention of the people of the City and County that its public utilities shall be gradually acquired and ultimately owned by the City and County." To that end it was provided that

[7] Communication of Prof. H. A. Millis, Leland Stanford Junior University.

"within one year from the date upon which this Charter shall go into effect, and at least every two years thereafter until the object expressed in this provision shall have been fully attained, the Supervisors must procure through the City Engineer plans and estimates of the actual cost of the original construction and completion by the City and County, of water works, gas works, electric light works, steam, water or electric power works, telephone lines, street railroads ,and such other public utilities as the Supervisors or the people by petition to the Board may designate." This, if complied with, would involve much work for the City Engineer—most of it of little practical value. The section was amended so that now such plans and estimates shall be made only where public ownership is seriously considered.

The Charter declaration quoted above was accepted by the Committee of One Hundred and by the Board of Freeholders without a dissenting vote. Yet when a referendum vote was taken December 2, 1902, to decide whether or not to purchase and operate the Geary Street Car Line as a municipal enterprise, it failed to receive the necessary two-thirds majority (the vote being 15,120 "for" to 11,334 "against"). At present the attitude toward municipal ownership is not as favorable as it was four years ago.

While the Charter as a whole has proven fairly satisfactory it has come into conflict with the State Constitution at one vital point—in the matter of Civil Service. An attempt to secure amendments to the Constitution so as to give full effect to the Charter provisions relating to this point has proved futile.

The government of San Franciso is a consolidated government; that is, it is the government of the City and County of San Francisco. The Charter provides for merit rule in practically all the departments of the administration. But in Crowley *vs.* Freud (132 Cal. 440) the Supreme Court of the State (by a vote of four to three) held that the provisions were void in so far as the so-called county offices were concerned. These are the offices of the sheriff, clerk, recorder, coroner and assessor—some of the largest departments of the consolidated government.

Subdivision 4 of Sec. 8½ of Article XI of the State Constitution says: "Where a city and county government has been merged and consolidated into one municipal government, it shall be competent in any charter framed . . . to provide for the manner in which, the times at which, and the terms for which the several county officers shall be elected or appointed, for their compensation, and for the number of deputies that each shall have, and for the compensation payable to each of such deputies." The Supreme Court holds that this does not confer power to prescribe the conditions of appointment of deputies, but merely to fix their number and their compensation.

Civil Service.—Again the Charter (Sec. 12, Article XIII) provides for permanency of tenure. This, though it has not been adjudicated (see Cahen *vs.* Wells, 132 Cal. 447) is believed to conflict with that part of the Constitution which provides that the duration of any office, not fixed by this Constitution, shall not exceed four years.

To remedy these two defects and to give the merit system the general

application intended by those who drew up and ratified the Charter, two amendments to the Constitution were presented to the last Legislature. One was defeated in the Senate largely by the vote of San Francisco politicians (seven of nine Senators voting "No") and the other was withdrawn. Consequently the civil service provisions apply to only a part of the city government.

But even here all is not well. In San Franciso, as elsewhere, merit rule has had every possible obstacle placed in its way by those whose personal interests are sacrificed. In some instances, the courts have granted injunctions against the holding of examinations to establish lists of eligibles. Some of these have been granted with little reason, as where the holding of an examination was enjoined on the ground that it was non-competitive because those under a certain height would not be accepted as applicants. This particular restraining order was temporary, it is true, but in effect it was something more for many months have brought no final decision with reference to whether or not it should be made permanent. But in spite of legal obstacles progress was being made till recently and in 1902 most of the departments of the city government had come to look upon merit rule with favor and the others looked upon it as an evil which must be accepted as fixed. More recently, however, great inroads have been made with the civil service and its friends have cause to fear for its more immediate future.

The Charter makes it incumbent upon the Mayor to appoint as Civil Service Commissioners three men "known by him to be devoted to the principles of Civil Service Reform." Some of the recent appointees, to say the least, are not known to be devoted to such principles. One chairman of the Commission was guilty of "raising" the examination questions. But of such dishonesty there has been little. The chief difficulty comes from the fact that the administration is highly centralized and the city has been unfortunate in its selection of a Mayor. The three members of the present Commission are appointees of the present Mayor and their work, as does that of most of the departments of the city government, expresses his will. He has attempted, with much success, to build up a strong Union Labor Party, with himself in charge of its machine. In furthering this plan wherever possible he has used the spoils of office, evading the spirit or violating the letter of the Charter. This attitude has licensed his lieutenants in charge of departments to do the same thing. This very unsatisfactory administration of the Charter provisions explains the fact that at present some four hundred non-civil service appointees are on the city's pay-roll where civil service appointees are required by law.

Sixty day appointments may be made in exceptional cases with the consent of the Civil Service Commission. Many of these are made without any good cause and without the knowledge of the Civil Service Commission. The salary warrants are audited and paid contrary to law. Recently the Health Department was reorganized by abolishing places held by civil service men for the most part and creating new places with practically the same duties but bearing different names, which when created were filled without regard to merit principles. The pretext was economy; the reason was so-called political necessity, as the

discharged employees were informed. It is suggested that inasmuch as a part of this action was perhaps legal, the Civil Service classification should be on a broader basis so that evasion would not be possible by merely changing names or duties slightly. The Civil Service Commission has disapproved of some of the appointments mentioned but the new appointees are being retained. The auditor has audited their salary warrants because he had made a hundred and fifty appointments without regard to Charter provisions and audited the warrants of these employees, so that he dared not do otherwise. Any further payments, however, have been enjoined at the request of the Merchants' Association. Still more recently illegal appointments have been made in the Department of Elections and a reorganization of the Board of Public Works was prevented only by threatened injunction proceedings. Whether the Civil Service provisions of the Charter shall retain any meaning at all depends upon the outcome of the injunction proceedings now before the courts.

In the long run Civil Service principles will obtain in the government of San Francisco for there is no doubt that the great majority of the electors heartily favor them. But administrative centralization is making it possible for the time being for the will of the people to remain without effect. The situation is causing the first questionings and feelings of doubt to arise in the minds of the electors whether the policy of centralizing so much power in the hands of the Mayor is after all a good one.

Bond Issue.—Another matter of interest is the recently authorized bond issue. The electors of San Francisco by a referendum vote, September 29, 1903, authorized the issue and sale of $17,771,000 of 3½ per cent, forty year bonds for the making of much-needed improvements; $1,000,000 is for erecting a new city and county hospital; $7,250,000 for constructing a new sewer system; $3,595,000 for building new school houses and providing play grounds; $1,621,000 for repairing and improving accepted streets; $697,000 for building a new county jail and improving the Hall of Justice; $1,647,000 for purchasing a site and erecting a library building thereon; $741,000 for purchasing land for children's playgrounds; and $1,220,000 for acquiring lands for various parks.

San Francisco has been very negligent in the matter of public improvements. Taken as a whole the expense for construction and repair of streets and school buildings regularly recurs and should have been met for the most part from the ordinary revenues. But the ordinary revenues have been small and insufficient. The tax rate for all city purposes except for paying interest and sinking fund charges and for maintaining parks, is limited to one per cent. or to one dollar on the hundred. As a consequence the tax rate is the lowest met with in the large cities of the country with which San Francisco may be properly compared. Little attention has been given to developing additional sources of revenue. Few loans have been made, the bonded debt being but $250,000 or about one-half of one per cent. of the assessed valuation of property when the present bond issue was authorized. The city has followed a pennywise policy in spending for improvements and so has little in the way of public property.

The present City and County Hospital is said to be among the worst, if

not the worst, in the world. In 1901 the School Department had seven brick and sixty-four wooden buildings and rented twenty-seven more. At present many of these are in a very unsanitary condition and it may be necessary to close some of them at once. It is planned to build twenty-seven new school houses with the borrowed funds. The so-called sewer systems, covering but a part of the city, is a patchwork beginning nowhere and leading nowhere in particular. The contemplated system involves the construction of one hundred and twenty miles of new sewers connected with two intercepting sewers emptying into the Bay at a distance from the shore such as will render the city's waste harmless. But few of the streets are well paved. At present there are two jails, neither of which is good, making the administration both inefficient and expensive. They are to be replaced by one modern institution. The Public Library, the largest west of the Missouri River, is poorly housed in the City Hall. The city now has a park area of some 1,400 acres. The contemplated purchases will add greatly to this and will make possible the creation of parks readily accessible to those living in the older and more crowded sections of the city.

By incurring this debt of more than seventeen and three-quarters millions, San Francisco plans to provide herself with the ordinary public conveniences of a progressive city. Though the Charter declares it to be the purpose of the city to municipalize all the public utilities, at present she owns none. She is one of the few large cities of the United States still dependent upon a private corporation for her water supply. Possibly a municipal system will be established in the not distant future. If this is done it will add greatly to the city's debt.

Boston.—*Percentage of Voters.*[8] The daily papers are filled with outcries against corruption in our great cities, whole columns being given over to the description of vice "which stalks abroad at noonday" until we are convinced that whatever there is of disrepute in the world must be within the cities. Magazines and publications of various sorts ascribe this state of affairs to a lack of civic patriotism and a loss of civic pride. Whatever this may mean certain it is that there is a most surprising indifference exhibited on the part of the voters measured by the number of ballots cast in the city elections of Boston. At the Boston municipal election of December 15, 1903, the actual vote was but 57.70 per cent. of the possible vote, the highest percentage of votes 69.91 being cast for the Mayor, the lowest 51.69 for Aldermen. Of the registered voters only 72.66 per cent. voted. The percentage of registered voters who voted at the municipal elections for five years preceding is as follows:

1899	1900	1901	1902	1903
79.94	70.80	79.94	60.03	72.66

The percentage of the actual to the possible vote for the same period:

1899	1900	1901	1902	1903
69.10	61.45	65.31	52.70	57.70

[8] Communication of Ward Wright Pierson, University of Pennsylvania.

This means that considerably less than two-thirds of the voters of Boston had sufficient interest in municipal affairs to spend the time to go to the polls.

Wisconsin and Milwaukee.—*The Liquor Question.*[9] The Wisconsin statutes provide that "each town board, village board and common council" may license any proper person to sell liquor, the amount of the payment for such license (subject to the power of the local electors to increase the same within certain limits) to be $100.00 in towns containing no city or village within their boundaries, provided there be a population of five hundred or more. In all cities, villages and "other towns" the license shall be $200.00, subject to the same local power to increase it. No such license shall be granted to the owner or keeper of a house of prostitution. The electors of cities, villages and towns may hold special elections at a specified time to fix the amount of saloon licenses, provided no other question is submitted to the electors at such election. In towns, cities and villages where the license is generally fixed by statute at $100.00, it may be increased by said electors to either $250.00 or $400.00; and in localities where the general statute license is $200.00, it may be increased to either $350.00 or $500.00. The license has never been raised above the statutory amount in Milwaukee.

Before receiving his license every applicant is required to file a bond to the State in the sum of $500.00 with proper sureties and approval, conditioned that the applicant shall keep an orderly house, prevent gambling, refuse to sell liquor to minors or intoxicated persons, and that he shall pay all damages provided for in Section 1650. Said section grants specific right of action to any person, suffering in property or means of support by reason of the sale of liquor to minors or intoxicated persons. Any unlicensed saloonkeeper who sells liquor to such persons is guilty of a misdemeanor, and punishable on conviction by a fine of not less than $50.00 nor more than $100.00 with costs; or by imprisonment for not less than three nor more than six months. A subsequent conviction involves both fine and imprisonment. In case any person, by reason of excessive drinking, wastes or lessens his estate, licensed liquor dealers may be forbidden, by his wife or specified officials or both, to sell liquor to such person for the space of one year.

There is a penalty of not less than $5.00 nor more than $50.00 for selling liquors to minors, and upon a written complaint, duly filed, by any resident of any town, village or city, that any licensed person therein keeps a disorderly house, permits gambling or sells liquor to minors without the written order of the parents or guardians of such minors, or sells liquor to intoxicated persons or habitual drunkards, the proper board may, upon a hearing, revoke the license. Section 1565a of the Statutes provides that " Whenever a number of the qualified electors of any town, village or city, equal to or more than 10 per centum of the number of votes cast therein for governor at the last general election, shall present to the clerk thereof a petition in writing, signed by them, praying that the electors thereof may have submitted to them the question, whether or not any person shall be licensed to deal or traffic in liquor, such clerk shall forthwith

[9] Communication of John A. Butler, Esq., Milwaukee, Wis.

make an order providing that such question shall be so submitted on the first Tuesday of April next succeeding the date of such order."

This brief *resumé* of the State laws of Wisconsin gives a fair and accurate idea of their spirit. The degree of their enforcement naturally depends upon local public opinion. That they are not abused in any excessive degree is indicated by the absence of conspicuous public discussion in the newspapers or otherwise, and the general prosperity and good order which characterizes the State.

The City Charter of Milwaukee, the largest city of the State, with a population of 326,000, gives the Common Council authority to regulate all places where liquors are sold, and to regulate and grade the amount to be paid for licenses, in proportion to the amount dealt in or vended; to prescribe the duration of such licenses; and to restrain the sale of liquor by anyone not duly licensed by the Common Council, provided the amount charged for any license be not less than the minimum, nor more than the maximum required by the State laws. No license shall be transferrable, or be granted for less than six months. There are no specific hours for closing saloons in Milwaukee, but not more than a half dozen saloons are open all night. Saloons are open all day Sunday. All saloonkeepers are required to give bonds as required by Section 1549 of the Statutes. Minors are undoubtedly admitted to saloons, but they are not visited by them to a noticeable extent, and there is probably no American city of the same size which, on the whole, is so free from drunkenness and immorality as Milwaukee. A drunken man is rarely seen on the streets, and public safety is unusually great, owing to an admirable police force on a Civil Service basis, and to the orderly character of the population. The present city administration is, unfortunately, favorable to a "wide-open town," and the Common Council has granted some licenses against the energetic protests of the Chief of Police. There are a few saloonkeepers in the Council, fewer than formerly, when a half dozen or more played an unsavory role in politics; but, speaking generally, the "saloon in politics" is less conspicuous in Milwaukee than elsewhere. The best way to eliminate it, in my opinion, would be to require the election of aldermen at large, instead of from wards, enforce a high license, establish a proportion between the number of saloons and the population and give the power to grant or revoke licenses to the executive head of the city government rather than a Council Committee.

Colorado Springs.—*The Liquor Question.*[10] The founders of Colorado Springs, desiring to make it in some sense a model city, provided at the beginning for the exclusion of liquor saloons. To this day, every warranty deed for the transference of property contains a clause which stipulates "that intoxicating liquors shall never be manufactured, sold or otherwise disposed of, as a beverage, in any place of public resort in or upon the premises hereby granted, or any part thereof; and it is herein and hereby expressly reserved . . . . that in case any of the above conditions concerning intoxicating liquors are broken by said . . . .

[10] Contributed by T. D. A. Cockerell, Esq.

then this deed shall become null and void, and all right, title and interest of, in and to the premises hereby conveyed shall revert," etc.

Although ordinary saloons are effectually excluded by the above provisions, it is not found that the liquor traffic is altogether abolished. The drug stores are licensed to sell liquor in quantities of not less than one quart, not to be consumed on the premises. As might be expected, they do not always keep the law, and as a matter of fact several of them have continually and flagrantly violated it. The city officials have been lax in this matter, and during the present year the clergy and others have felt it their duty to organize an anti-saloon league and take active measures to bring the culprits to book. As a result, several druggists have been tried and convicted, and the practices complained of have almost or quite ceased. The time for the removal of licenses was an opportune one for raising the whole question of the sale of liquor in the city, and enough pressure was brought to bear on the City Council to prevent the granting of new licenses to certain druggists who have been proved in the courts to have grossly violated the law. It is not supposed, however, that a permanent victory has been won; on the contrary, it is certain that things will return to their former condition whenever the interest created through the efforts of a comparatively small band of reformers shall have died out. The greatest obstacle in the way of those who stand for decency is the apathy of the nominally decent elements in the community.

Unfortunately, the drug stores are not the only offenders. Clubs, high and low, retail liquor to their members, and it is extremely difficult to reach them by any process of law. It is understood that the suppression of the drug store traffic has led to an increase in the number of clubs, one or more of which have an initiation fee of only twenty-five cents!

All things considered, there can be no doubt that Colorado Springs is greatly benefited by its liquor ordinances; but on the other hand continual vigilance is required to prevent their being rendered meaningless by evasions of the law.

District of Columbia.—*Report of the Commissioners.*[11] Of the large number of activities covered in the Annual Report of the Commissioners of the District of Columbia, 1903, three are of particular interest—Finance, Education and Health.

Finances.—The report shows the total expenditure for the year, exclusive of those for the water department and expenditures on account of special and trust funds were $9,088,554.67. This amount embraced $9,051,980.09 appropriated for the fiscal year 1903 and prior years, and $36,754.58 appropriated for the fiscal year 1904. During the year the indebtedness of the District for advances from the United States Treasury was reduced from $1,759,238.34 to $1,653,517.51. The total indebtedness June 30, 1903, was $14,877,147.69.

The Commissioners repeat their recommendation that the Secretary of the Treasury be authorized to make advances from the United States funds to enable the District to meet its share of the cost of the extraordinary municipal improvements—filtration plant, sewage disposal system, the District Building

[11] Communication of Ward Wright Pierson, University of Pennsylvania.

of which the District of Columbia is required to pay half the cost—the advances to be repaid by the District in installments with interest.

Education.—The public schools of the District were never before so well housed and equipped. The total number of pupils enrolled for the year was 48,745, an increase of 0.64 per cent.; of these 32,987 were white and 15,758 were colored; 1,371 teachers were employed of whom 925 were white and 446 colored.

Death Rate.—During the calendar year 1902 the lowest death rate, 19.99 per thousand, for ten years with one exception (1897—19.79) was reached. The average for the decade was 21.22; for whites, 17.29; for colored persons, 29.13. The most potent factor in the high death rate of colored persons is the mortality of children under one year representing the death of between 400 and 450 out of every 1,000 colored children born.

Drainage.—During the year 16½ miles of sewers were constructed and eleven miles of new water mains laid. 1,448 additional buildings were connected with the public water system, making the present number 49,929. 255 new meters were installed, the present number being 1,748.

Pennsylvania.—*Report of the Executive Committee of the Civil Service Reform Association.*[12] The increased efficiency of the individual in the classified service of the United States, leads at once to the conclusion that the application of the principles of the merit system in the selection of clerks and other employees in all the municipalities and the State at large, would produce a far better force than is at present secured under the spoils system. With this in view the Civil Service Reform Association of Pennsylvania has set itself the task of educating public opinion to a degree that the establishment of the merit system will be demanded of the Legislature in no uncertain way.

Although the City Charter of Philadelphia provides that the appointment of "all officers, clerks and employees" with certain exceptions shall be made in pursuance of "rules and regulations" providing for the ascertainment of the comparative fitness of all applicants for appointment or promotion by a systematic, open and competitive examination of such applicants, hitherto the public has believed that no candidate—no matter how high his mark could secure an appointment unless he possessed great political influence. But through the efforts of the Executive Committee of the Association the veil which shrouded the administration of the Civil Service Bureau during the recent city administration has been lifted in a measure and representatives of the Association admitted to the municipal civil service examinations.

While much of the Twenty-third Annual Report is given over to a discussion of cases, it shows clearly the difficulties to be overcome and presents a method of correcting existing faults. The Committee of the Association on Legislation has prepared a draft of an "Act to Regulate and Improve the Civil Service of the Commonwealth of Pennsylvania." The proposed bill provides for the appointment of a State Commissioner and the establishment of the "Competi-

[12] Communication of Ward Wright Pierson, University of Pennsylvania.

tive System" for selecting subordinate officials in the Service of the State and its principal cities.

FOREIGN CITIES.

Paris.—*Prostitution.*[13] A very interesting report upon the question of prostitution has recently been presented to the Municipal Council of Paris, France, by a committee of that body. The report is in three sections: (1) A General Survey by M. Henri Turst. (2) Brothels and Houses of Assignation by M. Adrien Mithouard. (3) Regulation from an Administrative View-point by Henri Turst. The various reports give a good historical account of the efforts to regulate prostitution in France, the various methods suggested and used, the effect of police control, the results of medical inspection and detailed discussion of the present situation.

The Committee thinks that the existing plan is largely a failure. (1) There have been some bad mistakes made by the police in arresting reputable women. (2) The greater number of prostitutes are not enrolled. Hence (3) the medical examinations cannot accomplish their purpose since so many avoid them, nor are they sufficiently thorough. (4) There is a question whether police intervention is really legal.

It is suggested that certain changes are necessary for two reasons:

1. Prostitution is not a crime (*délit*), hence unless the public peace and order are offended the police should have nothing to do with prostitution.

2. Syphilis should not cause punishment any more than any other disease but like other communicable diseases should be safeguarded for the sake of the public health. To accomplish this it is recommended (1) Free consultations should be given in all hospitals and dispensaries subsidized by the city of Paris. (2) Substitution of treatment in general hospitals for that in the special institutions now existing.

The Committee believes that in suggesting these important reforms it "substitutes for the arbitrary régime which is too severe a system both legal and inspired by a desire to exercise pity in a field hitherto ruled by brutality and egoism." "We believe that we have proposed a scheme for safeguarding at the same time individual liberty and the rights of society."

To make certain that advantage will be taken of the treatment offered by hospitals the transmission of syphilis is to be made a criminal offense for both men and women. Such legislation now exists in Norway.

Although few in America will welcome the suggestion to make prostitution a matter to be dealt with solely on sanitary grounds the discussions and proposals are worthy of careful consideration. The chief papers are in the Rapports, Conseil Municipal de Paris, 1904, No. 3; and a supplementary discussion concerning foreign conditions chiefly in England and Italy in No. 7.

[13] Communication of Dr. Carl Kelsey, University of Pennsylvania.